

ORIGINAL

Michael Torres

NAME

82661-198

PRISON IDENTIFICATION/BOOKING NO.

P.O. Box 3007 Terminal CA 90731

ADDRESS OR PLACE OF CONFINEMENT

Note: If represented by an attorney, provide name, address & telephone number. It is your responsibility to notify the Clerk of Court in writing of any change of address.

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII  
JUL 27 2007  
at 2 o'clock and 10 min P.M.  
SUE BEITIA, CLERK

UNITED STATES DISTRICT COURT  
~~CENTRAL DISTRICT OF CALIFORNIA~~ HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

Michael Torres Torres

FULL NAME OF MOVANT

(Include name under which you were convicted)

Petitioner.

MICHAEL TORRES JAIMES

CASE NUMBER:

CV

To be supplied by the Clerk of the United States District Court

CR

03-00501-SOM

Criminal case under which sentence was imposed.

**MOTION TO VACATE, SET ASIDE OR  
CORRECT SENTENCE BY A PERSON IN  
FEDERAL CUSTODY  
28 U.S.C § 2255**

## INSTRUCTIONS - READ CAREFULLY

This motion must be legibly handwritten or typewritten and signed by the movant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form. Where more room is needed to answer any questions use reverse side of sheet.

Additional pages are not permitted. No citation or authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

Upon receipt, your motion will be filed if it is in proper order. **NO FEE** is required with this motion

If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with a motion of this type, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to pay costs. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

Only judgments entered by one court may be challenged in a single motion. If you seek to challenge judgments entered by different judges or divisions either in the same district or in a different districts, you must file separate motions as to each judgment.

Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the motion you file seeking relief from any judgment of conviction.

When the motion is fully completed, the original and three (3) copies must be mailed to the Clerk of the United States District Court, whose address is 312 North Spring Street, Los Angeles, California 90012.

## MOTION

1. Name and location of court which entered judgment of conviction under attack: \_\_\_\_\_

F.D.C Honolulu HI

2. Date of judgment of conviction: \_\_\_\_\_

3. Length of sentence: 15 months Sentencing judge: Mollway

4. Nature of offense or offenses for which you were convicted: \_\_\_\_\_

Title 21 USC §46 Conspiracy PWTD over 500 Grams Cocaine

Title 21 USC §46 Attempt PWTD 500 Grams Cocaine

5. What was your plea? (check one)

- ☒ Not guilty  
☐ Guilty  
☐ Nolo Contendere

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (check one)

- ☒ Jury  
☐ Judge only

7. Did you testify at the trial?

- ☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

- ☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court 9th circuit

(b) Result Denied

(c) Date of result July 21 2006

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

☐ Yes ☒ No

11. If your answer to question number 10 was "yes", give the following information:

(a) (1) Name of Court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(b) (1) Name of Court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) (1) Name of Court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(d) Did you appeal, to an appellate federal court having jurisdiction, the results of action taken on any petition, application or motion?

(1) First petition, etc. ☐ Yes ☐ No

(2) Second petition, etc. ☐ Yes ☐ No

(3) Third petition, etc. ☐ Yes ☐ No

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

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12. State concisely every ground on which you claim that you are being held unlawfully.

**CAUTION:** If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date. For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you selected one or more of these grounds for relief, you must allege facts in support of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: PETITIONER WAS DENIED HIS CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE  
OF COUNSEL

Supporting facts (tell your story briefly without citing cases or law): \_\_\_\_\_

Please refer to Memorandum of Points and Authorities in support of Petition for  
Writ of Habeas Corpus pursuant to Title 28 USC 2255

B. Ground two: TERM OF IMPRISONMENT EXCEEDS THE CONSTITUTIONALLY PERMISSIBLE  
MAXIMUM PENALTY

Supporting facts (tell your story briefly without citing cases or law): \_\_\_\_\_

Please refer to Memorandum of Points and Authorities.

C. Ground three: \_\_\_\_\_

Supporting facts (tell your story briefly without citing cases or law): \_\_\_\_\_

D. Ground four: \_\_\_\_\_

Supporting facts (tell your story briefly without citing cases or law): \_\_\_\_\_

13. If any of the grounds listed in 12-A, B, C and D were not previously presented, state briefly what grounds were not presented, and give your reasons for not presenting them: \_\_\_\_\_

I was represented by counsel up to this point and counsel will not appeal or challenge  
their own effectiveness

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?

☐ Yes ☐ No

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attached herein:

(a) At a preliminary hearing: Pamela O'Leary Tower

(b) At arraignment and plea: \_\_\_\_\_

(c) At trial: Pamela O'Leary Tower

(d) At sentencing: Pamela O'Leary Tower

(e) On appeal: Pamela O'Leary Tower

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any adverse ruling in a post-conviction proceeding: \_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court at approximately the same time?

☒ Yes ☐ No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

☐ Yes ☒ No

(a) If so, give the name and location of the court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give the date and length of sentence to be served in the future: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed sentence to be served in the future?


☐ Yes ☐ No

WHEREFORE, movant prays that the court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on 07/24/07  
Date

  
Signature of Movant